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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/239,878	01/29/1999	MARK L. BOYER	07091-006001	6652

7590 12/02/2005

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EXAMINER
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CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 12/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/239,878

Applicant(s)

BOYER ET AL.

Examiner

Robert J. Canfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33,34,36,37 and 39-43 is/are pending in the application.  
4a) Of the above claim(s) 39 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 33,34,36,37 and 40-43 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 29 January 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/29/05 has been entered. Claims 33, 34, 36, 37 and 39-43 are pending with claims 39 being withdrawn from consideration for being directed to a non-elected invention. Claims 1-32, 35 and 38 have been canceled.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 33, 34, 36 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,596,417 to Zachry.

Zachry provides a precast room or "vault" which is formed of a unitarily cast or formed single seamless piece having walls, a floor, a roof, a conventional door opening (column 2, line 12) which inherently includes a door mounted within a door frame, and hooks 24 integrally formed into the seamless housing body for facilitating hoisting.

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4. Claims 33, 36, 40 and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,519,727 to Fritz.

Fritz provides a modular vault which is formed of a unitarily cast or formed single seamless piece body 12 having walls, a floor, a roof, a door 9 mounted within a door frame 6/20, and lining 14 which ensures vapor-tightness. Hooks 42 are provided, however, they are not formed in the housing body, but rather the door.

5. Claims 33, 36, 40 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 1,400,104 to Thorig.

Thorig provides a secure vault formed from a single monolithic concrete body (a), having a door frame (n) positioned within a door opening, and a door (b) mounted to the door frame. Page 2, lines 36-38 recites that fire, smoke and gases cannot penetrate the interior. Thus the vault is considered to be vapor tight. The term "walk-in" fails to provide any specific dimensions. While Torig is silent as to the size of his vault it is considered to be capable of being walked into.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 34, 37, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 1,400,104 to Thorig in view of U.S. Patent 2,103,005 to Handly.

Thorig provides each of the elements of these claims except for providing a plurality of hooks integrally formed into the housing body (a) to facilitate hoisting.

Handley teaches that at the time of the invention it was known to provide concrete vaults with hooks integrally formed to the body to assist in lifting the vault.

It would have been obvious at the time of the invention to one having ordinary skill in the art that the concrete vault of Thorig could have been provided in the roof thereof with integral hooks as taught at 27 by Handley to assist in lifting the vault due to the great amount of weight the vault inherently must weigh since it is formed of concrete.

8. Applicant's arguments filed 08/29/05 have been considered but are moot in view of the new ground(s) of rejection. The examiner apologizes for the "piecemeal" examination to this point. Applicant is correct in noting that the frequent change of examiners has been a large part of the problem. The examiner has performed a thorough search of the prior art and believes all elements of the claims have been addressed.

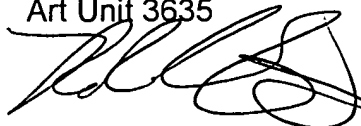
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield  
Primary Examiner  
Art Unit 3635



11/23/05